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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,038	12/22/2004	Mikael Torma	U 015549-9	7046
140 LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023	7590 02/01/2008		EXAMINER LEWIS, JUSTIN V	
			ART UNIT 4124	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/519,038	TORMA, MIKAEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	JUSTIN V. LEWIS	4124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 January 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 December 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>22 December 2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Specification***

1. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

- i) paragraph 2, line 3, reads in part, "It is also known such supplemental means which can be....";
- ii) paragraph 4, lines 1-2 read, "The narrow neck portion of a bottle is also frequently a base for adapting labels, conventionally by glue in a fix manner.;"
- iii) paragraph 5, line 1, reads in part, "It is a need for disclosing additional information in respect of a certain bottle...."
- iv) paragraph 5, line 4, reads in part, "The additional information it may be advantageously ...."
- v) claim 15, lines 1-3 reads in part, "Information carrier band label, especially for use with wine bottles, attached to the cylindrical neck portion of the bottle, which label is made of information carrier sheet of paper or plastic of the similar format...."

***Claim Objections***

2. Claim 6 recites the limitation "the ring" in line 2. There is insufficient antecedent basis for this limitation in the claim. However, it is noted that claim 5 would provide sufficient antecedent basis for the limitation if claim 6 were dependent upon claim 5, as opposed to being dependent upon claim 3.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,756,944 to Gorton, Jr. ("Gorton").

Gorton teaches:

**In Reference to Claim 1**

An information carrier band label (label B), especially for use with wine bottles, attached to the cylindrical neck portion of the bottle (see col. 1, lines 1-4, indicating that the label may be attached to a can or package, imaginably including a bottle), which label is made of an information carrier sheet of paper (see col. 1, lines 39-40, indicating that the label is made of paper) or plastic of the similar format, characterized in that it has a first end portion (end 6) attached to the cylindrical neck portion (see col. 1, lines 39-41), and has a second portion (opposite end 7) connecting to the first end portion and fixed around the neck portion by a fixing means (see col. 1, lines 41-44, teaching that the

label is fixed to the substrate object by an adhesive), and the second portion (opposite end 7) of the band label (label B) is capable of carrying information on its both sides (see col. 1, lines 8-9), and the band label has two positions, in the first position the band label is banded around the neck portion overlapping at least partially itself, beginning at the first end portion (see Fig. 1, showing label overlapping itself after being wrapped completely around the circumference of a substrate object), while in the second position the second portion is extending freely from the bottle (see Fig. 2, showing the opposite end 7 of the label B extending freely from a substrate object).

In Reference to Claim 2

The information carrier band label (label B) according to claim 1, characterized in that the first end portion (end 6) is attached to the cylindrical neck portion by glue (see col. 1, lines 41-45, teaching that the label B is attached to a substrate object by the use of an adhesive; note that glue is a form of adhesive).

In Reference to Claim 3

The information carrier band label (label B) according to claim 1, characterized in that the fixing means is a self-adhesive area (see col. 1, lines 41-45, teaching that the label B is attached to a substrate object by the use of an adhesive; note that a “self-adhesive” treatment applied to an area of the label B is encompassed by the term “adhesive”).

In Reference to Claim 4

The information carrier band label (label B) according to claim 3, characterized in that the self adhesive area (opposite end 7, which contains adhesive) is provided with a lug (note that the lug may be defined by notches 9 and perforations 8, as described in col.

2, lines 51-56; alternatively, the lug may be defined as an integral portion of opposite end 7, which may be gripped and used to move opposite end 7 between its first and second positions, described in the rejection of claim 1, above) for gripping by fingers.

In Reference to Claim 14

The information carrier band label (label B) according to claim 1, characterized in that the width of the band label (label B) is not constant (note that in notch areas 9, the width of the label B is less than the width in neighboring areas of the label B, as seen in Figs. 3, 4 and 5).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorton in view of U.S. Patent No. 1,743,980 to Samson ("Samson").

In Reference to Claim 5

Gorton teaches:

The information carrier band label (label B) according to claim 1 (see rejection of claim 1, above), but fails to disclose:

a fixing means consisting of a ring concentrically surrounding the neck portion of the bottle and the band label in its first position.

Samson teaches:

a fixing means consisting of a ring (rubber band 12) concentrically surrounding the neck portion of the bottle and the band label in its first position (as seen in Fig. 1), to hold an object (adhesive sealing strip 9) in position against the side of a bottle (see col. 2, lines 73-81).

It would have been obvious to one having ordinary skill in the art at the time of the invention to use the ring of Samson (rubber band) as a secondary means (in addition to the adhesive already taught by Gorton) by which to ensure that the label of Gorton (in lieu of the adhesive sealing strip of Samson), while in its first position, remains in position against the side of the neck portion of the bottle, as explicitly taught by Samson.

In Reference to Claim 6

When Gorton is modified by Samson (in the manner and for the reasons set forth in the rejection of claim 5, above), the resultant combination teaches:

The information carrier band label (label B) according to claim 3 (see rejection of claim 3, above), characterized in that the ring is made of elastic material (note that a rubber band is inherently made of elastic material; note also that in this rejection, Examiner treats claim 6 as if the above recited lack of antecedent basis for the limitation "the ring" does not exist).

7. Claims 7-12 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorton in view of U.S. Patent No. 5,924,739 to Garbutt ("Garbutt") and U.S. Patent No. 4,506,797 to Bullock, III ("Bullock").

In Reference to Claim 7

Gorton teaches:

The information carrier band label (label B) according to claim 1 (see rejection of claim 1, above), but fails to disclose:

the band label being fixed in cooperation with a foil capsule originating the sealing means of the bottle.

Bullock teaches:

a means by which to originate the sealing means of the bottle (wine bottle cover, particularly the portion above the bead 17, as seen in Fig. 1), to prevent removal of the cork from the bottle without providing indication of tampering (see col. 1, lines 6-7).

Garbutt teaches:

a foil capsule (capsule 17, which may be made of foil, as described in col. 3, lines 49-52), in order to keep items located underneath the capsule within a weatherproof environment (see col. 3, lines 49-51).

It would have been obvious to one having ordinary skill in the art at the time of the invention to attach a Bullock wine bottle cover over the top of the wine bottle, in order to prevent removal of the cork from the bottle without providing an indication of tampering, as explicitly taught by Bullock. It would have been further obvious to replace the Bullock skirt (see Bullock Fig. 2, No. 36) with the Garbutt capsule in such a manner that it covers the Gorton label (already affixed to the neck of the bottle in the manner and for

the reasons described in the rejection of claim 1, above), in order to keep the Gorton label in a weatherproof environment, as explicitly taught by Garbutt.

In Reference to Claim 8

Gorton, as modified by Bullock and Garbutt, teaches:

The information carrier band label (Gorton label B) according to claim 7 (see rejection of claim 7, above), characterized in that the first end portion (Gorton end 6) is fixed on the outside of the foil capsule (Garbutt capsule 17) (Note that as opposed to the motivation for combination set forth in the rejection of claim 7, above, it would have been obvious to attach the Gorton label to the bottle in such a manner that it surrounds the Garbutt capsule in order to make the content of the underside of the Gorton label available for inspection prior to severing the Garbutt capsule and opening the bottle of wine).

In Reference to Claim 9

Gorton, as modified by Bullock and Garbutt, teaches:

The information carrier band label (Gorton label B) according to claim 7 (see rejection of claim 7, above), characterized in that the band label (Gorton label B) in its first position is fixed under the foil capsule (Garbutt capsule 17).

In Reference to Claim 10

Gorton, as modified by Bullock and Garbutt, teaches:

The information carrier band label (Gorton label B) according to claim 9 (see rejection of claim 9, above), characterized in that the foil capsule comprises a circular opening strip (Bullock tear strip 40) and a longitudinal opening strip

(Garbutt tear-away tab 19), the circular opening strip (Bullock tear strip 40) dividing the foil capsule into a cylindrical part (Garbutt capsule, having replaced the Bullock skirt) and a cap part (portion above Bullock bead 17) where after tearing the circular opening strip (Bullock tear strip 40), the cap part (portion above Bullock bead 17) can be removed from the bottle while the cylindrical part (Garbutt capsule, having replaced the Bullock skirt) remains on the neck portion, and after tearing the longitudinal opening strip (Garbutt tear-away tab 19), the cylindrical part remaining on the neck portion can also be removed, bringing thus the band label into its second position.

In Reference to Claim 11

Gorton, as modified by Bullock and Garbutt, teaches:

The information carrier band label (Gorton label B) according to claim 10, characterized in that the circular opening strip (Bullock tear strip 40) and the longitudinal opening strip (Garbutt tear-away tab 19) are each provided with a lug (Bullock tab 44 and bottom portion of Garbutt tab 19 [as seen in Garbutt Figs. 2 and 3]) for gripping by fingers.

In Reference to Claim 12

Gorton, as modified by Bullock and Garbutt, teaches:

The information carrier band label (Gorton label B) according to claim 9 (see rejection of claim 9, above), characterized in that the band label (Gorton label B) in its first position (described in rejection of claim 1, above) is surrounded by the unopened foil capsule (Garbutt capsule 17) in partial overlap (note that as

described in the rejection of claims 1, 7, and 9, above, the Gorton label could be wound upon itself in partial overlap and partially covered by the Garbutt capsule, leaving part of the Gorton label uncovered).

In Reference to Claim 15

When Gorton is modified by Bullock and Garbutt (in the manner and for the reasons set forth in the rejection of claim 7, above), the resultant combination teaches:

An information carrier band label (Gorton label B), especially for use with wine bottles, attached to the cylindrical neck portion of a bottle (see Gorton, col. 1, lines 1-4, indicating that the label may be attached to a can or package, imaginably including a bottle), which label is made of an information carrier sheet of paper (see col. 1, lines 39-40, indicating that the label is made of paper) or plastic of the similar format, and which bottle is provided with a foil capsule (Garbutt capsule 17, which may be made of foil, as described in Garbutt, col. 3, lines 49-52) covering the sealing means of the bottle (Bullock portion above bead 17, as seen in Bullock Fig. 1), characterized in that the band label (Gorton label B) is capable of carrying information on its both sides (see Gorton col. 1, lines 8-9), and the band label (Gorton label B) has two positions, in the first position the band label banded from its one end around the neck portion in an angle of at least 450 degrees (see Gorton, col. 1, lines 41-44, describing the opposite end 7 overlapping the end 6; note that no limit is imposed on the amount of the label B overlapping itself), being under and fixed by the unopened foil capsule (note that the label could be under and fixed by the unopened capsule in order to keep the

label within a weatherproof environment, as explained in detail in the rejection of claim 7, above), and in the second position, the band label is extending freely from the bottle (see Gorton, Fig. 2, showing the label B extending freely from an object).

In Reference to Claim 16

Gorton, as modified by Bullock and Garbutt, teaches:

The information carrier band label (Gorton label B) according to claim 15 (see rejection of claim 15, above), characterized in that the foil capsule comprises a circular opening strip (Bullock tear strip 40) and a longitudinal opening strip (Garbutt tear-away tab 19), the circular opening strip (Bullock tear strip 40) dividing the foil capsule into a cylindrical part (Garbutt capsule, having replaced the Bullock skirt) and a cap part (portion above Bullock bead 17) where after tearing the circular opening strip (Bullock tear strip 40) the cap part (portion above Bullock bead 17) can be removed from the bottle while the cylindrical part (Garbutt capsule, having replaced the Bullock skirt) remains on the neck portion, and after tearing the longitudinal opening strip (Garbutt tear-away tab 19), the cylindrical part remaining on the neck portion can also be removed, bringing thus the band label into its second position.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gorton.

Gorton teaches:

The information carrier band label (label B) according to claim 1 (see rejection of claim 1, above), characterized in that the band label (label B) in its first position is banded around the neck portion of the bottle, but fails to disclose:

the label being banded around the neck portion of the bottle in an angle of at least 450 degrees.

It would have been obvious to one having ordinary skill in the art at the time of the invention to extend the length of the label to a sufficient length where it is banded around the neck portion of the bottle in an angle of at least 450 degrees, in order to provide the maximum possible writing area on the label for advertising and/or informational purposes (see col. 1, lines 41-44, describing the opposite end 7 overlapping the end 6; see also Fig. 1, showing the overlapping ends of the label; note that no limit is imposed on the amount of the label B overlapping itself).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:i) U.S. Patent No. 5,342,093 to Weernink (teaching a wrap around label); ii) U.S. Patent No. 2,398,257 to Schwartz (teaching a wrap around label); iii) U.S. Patent No. 6,193,279 to Seidl (teaching a label for labeling of preferably cylindrical containers); iv) U.S. Patent No. 4,324,058 to Sherwick, et. al. (teaching a method of labeling undersized containers); and v) U.S. Patent No. 4,727,667 to Ingle (teaching extended wrap around labels).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN V. LEWIS whose telephone number is (571)270-5052. The examiner can normally be reached on M-F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Bomberg can be reached on (571) 272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JVL  
/Thor S. Campbell/  
Primary Examiner, Art Unit 3742